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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,118	10/29/2003	Peter E. Leach	VEL 98-04D2US	7252
21403	7590	12/13/2005	EXAMINER	
STEVEN J WEISSBURG 238 MAIN STREET SUITE 303 CAMBRIDGE, MA 02142			MACKEY, JAMES P	
			ART UNIT	PAPER NUMBER
			1722	

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/696,118

Applicant(s)

LEACH ET AL.

Examiner

James Mackey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 36-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 36-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/29/2003.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

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1. Applicant should update the status of the parent application, including the patent number, at the beginning of the specification.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “plates comprising less than an entire circular plate” (claim 38), the injection molding assembly component of a plurality of mold plates “having similarly curved edges” (claim 40), and the “second component further comprising complementary molding cavities to form said base member and to define edges of said base member strip” (claim 41) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the specification does not describe the “second component further comprising complementary molding cavities to form said base member and to define edges of said base member strip” as is claimed in claim 41.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 36-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 36, line 4, “similar arcuate edges” is of indefinite scope, since the metes and bounds of what is considered to be “similar” cannot be ascertained; line 15, “circular surface” should be changed to --cylindrical surface-- to agree with the subsequent recitations; line 21, “close to” is a relative term which renders the claim indefinite, since the term “close” is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention (see *Seattle Box Co., Inc. v. Industrial Crating & Packing, Inc.*, 221 USPQ 568, 574); and lines 23-24, “said surface” is indefinite as to which of the previously-recited surfaces is intended (it appears that the phrase should read --said cylindrical surface--).

In claim 38, line 4, “said members” lacks proper antecedent basis in the claim; and lines 5-6, “said circular cylindrical surface” should read --said cylindrical surface-- to clearly refer to the previously-recited surface.

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In claim 39, line 5, "said circular cylinder mold wheel" should read --said cylindrical mold wheel-- to clearly refer to the previously-recited mold wheel.

In claim 40, line 4, "similarly curved edges" is of indefinite scope, since the metes and bounds of what is considered to be "similarly curved" cannot be ascertained; and lines 20-21, "said first component" lacks proper antecedent basis in the claim (note line 14 of the claim which recites "one component").

In claim 41, lines 2-3, "said base member" should be --said base member strip-- for proper antecedent basis.

In claim 42, line 5, "said mold assembly" should be --said molding assembly-- for proper antecedent basis.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

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claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 36-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Fischer (U.S. Patent 4,794,028), Menzin et al. (U.S. Patent 3,752,619) and Jens (U.S. Patent 6,258,311; Figs. 1-3 and 19), in view of Kessler et al. (U.S. Patent 5,180,618; col. 5, lines 11-18), Japanese Patent 2,788,564 (Figs. 1, 2 and 4) and WIPO Document WO 98/02331 (page 23, lines 5-20).

Each of Fischer, Menzin et al. and Jens (Figs. 1-3) discloses a cylindrical mold wheel cooperating with an extruder die for molding a strip of a separable fastener, the mold wheel comprising a plurality of axially stacked mold plates (which may be circular as in Fischer and Jens, or may be less than an entire circular plate as in Menzin et al.), the mold plates having fastening element mold cavities intersecting the arcuate edges and one face of the mold plate to form upstanding members integral with a base member strip, except for the mold cavities being arranged into a plurality of segment forming regions each circumscribed by a gasket mold cavity with a hinge forming region between each adjacent pair of segment forming regions.

Kessler et al. disclose a molded strip of a separable fastener having regions of upstanding fastener members 16 integral with a base member strip, and integral gaskets 18, 18a which may be formed during molding (col. 5, lines 11-18). Japan '564 discloses a molded strip of a separable fastener having upstanding fastener members integral with a base member strip and

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circumscribed by a gasket 14, with a hinge 17 formed between adjacent regions of fastener members. WO 98/02331 discloses a molded strip of a separable fastener having regions of upstanding fastening members with an integral molded hinge formed between adjacent regions (page 23, lines 5-20).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify any one of Fischer, Menzin et al. and Jens by providing the mold cavities arranged into a plurality of fastener segment forming regions, as disclosed in any one of Kessler et al., Japan '564 and WO 98/02331, in order to form a molded strip having longitudinally separated regions of fastener elements. It would have been further obvious to a skilled artisan to modify any one of Fischer, Menzin et al. and Jens by providing a gasket mold cavity circumscribing each region of fastener element mold cavities, in order to integrally mold a gasket surrounding each region of fastener elements for separately sealing each region of fastener elements during foam molding, as disclosed in Japan '564, since the prior art recognized the utility of integrally molding a gasket sealing element with the fastener strip as suggested by Kessler et al. Moreover, it would have been obvious to a skilled artisan to modify any one of Fischer, Menzin et al. and Jens by providing the mold wheel with a hinge forming region between each adjacent pair of fastener segment forming regions, as disclosed in WO 98/02331, in order to provide increased flexibility to the strip product. With regard to the side-by-side fastener forming regions on the mold wheel formed by additional pluralities of mold plates arranged axially along the mold wheel, as claimed in claim 39, such is taught in Jens (Figure 19).

10. Claims 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Buzzell et al. (U.S. Patent 6,059,558) or McVicker (U.S. Patent 5,656,226), in view of Kessler et

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al. (U.S. Patent 5,180,618; col. 5, lines 11-18), Japanese Patent 2,788,564 (Figs. 1, 2 and 4) and WIPO Document WO 98/02331 (page 23, lines 5-20).

Buzzell et al. and McVicker each discloses an injection molding assembly for molding a strip of a separable fastener, the assembly comprising two cooperating mold components and inherently having injection passages and ejection means, one component including a plurality of stacked mold plates having fastening element mold cavities intersecting the edges and one face of the mold plate to form upstanding members integral with a base member strip molded between the mold components, except for the mold cavities being arranged into a plurality of segment forming regions each circumscribed by a gasket mold cavity with a hinge forming region between each adjacent pair of segment forming regions.

Kessler et al. disclose a molded strip of a separable fastener having regions of upstanding fastener members 16 integral with a base member strip, and integral gaskets 18, 18a which may be formed during molding (col. 5, lines 11-18). Japan '564 discloses a molded strip of a separable fastener having upstanding fastener members integral with a base member strip and circumscribed by a gasket 14, with a hinge 17 formed between adjacent regions of fastener members. WO 98/02331 discloses a molded strip of a separable fastener having regions of upstanding fastening members with an integral molded hinge formed between adjacent regions (page 23, lines 5-20).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify either Buzzell et al. or McVicker by providing the mold cavities arranged into a plurality of fastener segment forming regions, as disclosed in any one of Kessler et al., Japan '564 and WO 98/02331, in order to form a molded strip having longitudinally separated regions



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of fastener elements. It would have been further obvious to a skilled artisan to modify either Buzzell et al. or McVicker by providing a gasket mold cavity circumscribing each region of fastener element mold cavities, in order to integrally mold a gasket surrounding each region of fastener elements for separately sealing each region of fastener elements during foam molding, as disclosed in Japan '564, since the prior art recognized the utility of integrally molding a gasket sealing element with the fastener strip as suggested by Kessler et al. Moreover, it would have been obvious to a skilled artisan to modify either Buzzell et al. or McVicker by providing the mold component with a hinge forming region between each adjacent pair of fastener segment forming regions, as disclosed in WO 98/02331, in order to provide increased flexibility to the strip product.

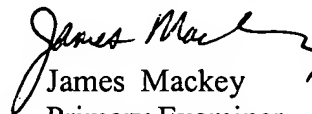
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Mackey whose telephone number is 571-272-1135. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
James Mackey  
Primary Examiner  
Art Unit 1722

12/12/05

jpm  
December 12, 2005